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## 6 Attorneys for Fire Victim Claimants, including Justin Haugse

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

**Objection Deadline: June 22, 2022**

24 The Kane Law Firm respectfully files this motion to allow the late filing of a proof of  
25 claim and deem the proof of claim as having been timely filed for the moving party herein, Justin  
26 Haugse.

111

I.

## **SUMMARY OF ARGUMENT**

3 A proof of claim may be deemed timely upon a showing of excusable neglect and lack of  
4 prejudice. The Supreme Court in *Pioneer Investment Services v. Brunswick Associated Ltd.*  
5 *Partnership*, 507 U.S. 380 (1993) set forth the factors that must be considered in ruling on  
6 whether a late claim should be allowed in the context of a bankruptcy filing. These factors to be  
7 considered are as follows:

8           1. The danger of prejudice to the Debtor,

9           2. The length of delay and its potential impact on judicial proceedings,

10           3. The reason for the delay, including whether it was within the reasonable control of the

11 movant, and

12           4. Whether the movant acted in good faith. *Pioneer Investment Services, supra* at 395.

13 In this case, Justin Haugse was living with his fiancée at a home that they rented located at  
14 13890 Creston Road, Magalia, California on the date of the fire. The house was burned in the  
15 fire. Mr. Haugse lost personal property, including a dirt bike, parts, firearms, appliances,  
16 furnishings, and clothing. Mr. Haugse was displaced for several weeks before he could find  
17 somewhere to live. He suffered emotional distress because of the fire. He was unaware that he  
18 could file a claim for the loss of personal property because the home he lived in was rented.

19 As set forth below, the movant meets all these factors. Indeed, if this motion is *not* granted  
20 it is the movant who will suffer substantial prejudice.

II.

## **PROCEDURAL BACKGROUND**

23 On January 29, 2019, the Debtors, PG&E Corporation and Pacific Gas and Electric  
24 Company (“Debtors”) filed a voluntary Chapter 11 Petition. *See* Dkt. 1. On July 2, 2019, the  
25 Court entered an order establishing October 21, 2019 (“the bar date”) as the deadline for Fire  
26 Victim claimants to file proofs of claim in this bankruptcy. *See* Dkt. 2806. That deadline was  
27 extended to December 31, 2019 (“the “extended bar date.”). *See* Dkt. 4872.

III.

## **FACTUAL BACKGROUND**

4 On the date of the fire, Justin Haugse lived with his fiancée at a home that they rented  
5 located at 13980 Creston Road, Magalia, California. Mr. Haugse evacuated. His rental home was  
6 burned in the fire. He lost personal property that burned in his home rental. That personal  
7 property included a dirt bike, parts, firearms, appliances, furnishing and clothing. He was  
8 unaware that he could file a claim for his personal property as it was destroyed in a rental home.  
9 He only recently learned that he could file a claim for this property and for emotional distress  
10 damages. (See Declaration of Justin Haugse). Mr. Haugse has filed a Proof of Claim which was  
11 assigned number 108428. (See Exhibit "A").

IV.

## ARGUMENT

14 The time in which to make claims in a Chapter 11 Bankruptcy may be extended by motion  
15 based on excusable neglect. Federal Rules of Bankruptcy Procedure, Rule 9006(b)(1) provides:

16 (b) Enlargement.

17 (1) *In general.* Except as provided in paragraphs (2) and (3) of this subdivision,  
18 when an act is required or allowed to be done at or within a specified period by  
19 these rules or by a notice given thereunder or by order of court, the court for cause  
20 shown may at any time in its discretion (1) with or without motion or notice order  
the period enlarged if the request therefor is made before the expiration of the  
period originally prescribed or as extended by a previous order or (2) **on motion  
made after the expiration of the specified period permit the act to be done  
where the failure to act was the result of excusable neglect.**

where the failure to act was the result of excusable Fed R. Bank. Proc. 9006.(b)(1). Emphasis supplied.

22 Determination of excusable neglect has been interpreted by the United States Supreme  
23 Court as an equitable consideration.

24        “We conclude the determination at bottom an equitable one, taking account of all relevant  
25        circumstances surrounding the party’s omission. These include. . .the danger of prejudice  
26        to the debtor, the length of the delay and its potential impact on judicial proceedings, the  
            reason for the delay, including whether it was within the reasonable control of the movant,  
            and whether the movant acted in good faith.”*Pioneer Inv. Servs v. Brunswick Assoc.*  
            *Ltd.P’ship*, 507 U.S. 380, 395 (1993)

28 Here, there is no danger of prejudice to the Debtors. Where the claim does not disrupt the

1 distribution process, no prejudice will result. *In re Sacred Heart Hosp.* 186 B.R. 891, 897.  
2 (“Exactly how the debtor’s assets are distributed is ultimately of little consequence to the  
3 debtor, so long as the claim is not filed so late as to disrupt the distribution process.”)

4 Further, the delay is not significant. The Trust has only completed determinations (not  
5 reconsiderations or appeals) on approximately 50% of all claims. Allowing the late claim will not  
6 delay the proceedings.

7 The reason for the delay in filing a claim was that Justin Haugsesimplymisunderstoodthe  
8 process. Excusable neglect will be found even where sophisticated attorneys miss a deadline.  
9 *ZiLOG, Inc. v. Corning (In re ZiLOG, Inc.)*, 450 F.3d 996, 1006 (9<sup>th</sup> Cir. 2006). The case for  
10 excusable neglect is even more compelling when the mistake was made by an unrepresented  
11 layperson. *Id.*

12 Further, Justin Haugseacted in good faith. The failure to file was not based on litigation  
13 tactics where a party deliberately misses a deadline to gain advantage. (See e.g., *Venice Baking*  
14 *Co. v. Sophast Sales & Mkg. LLC* 2016 U.S. Dist LEXIS 141533 where relief was denied because  
15 counsel purposefully chose not to oppose a motion as a litigation tactic). Here the delay was  
16 inadvertent and the movant’s lack of understanding of the claims process after a trust fund had  
17 already been established to satisfy the claim.

18 And, finally, the likelihood of injustice is great if this claim is not permitted. Justin  
19 Haugse is Camp Fire victim whose primary avenue for compensation is through this bankruptcy.

20 **V.**

21 **CONCLUSION**

22 For the reasons set forth above, Movant respectfully requests that this Court enter an  
23 Order pursuant to Bankruptcy Rule 9006(b)(1) as follows:

24 1. Granting the Motion;

25 2. Finding that the Movant be allowed to file a Proof of Claim and deem it as having been  
26 timely filed;

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28 ///

3. Granting such other or further relief as the Court deems just and proper.

Dated:May 4, 2022

Respectfully submitted,

## THE KANE LAW FIRM

By:                    /s/  
BONNIE E. KANE  
Attorneys for Justin Haugse